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Elections to fill vacancies in subsidiary organs and other elections: election of fourteen members of the Human Rights Council

Letter dated 22 March 2016 from the Permanent Representative of Guatemala to the United Nations addressed to the President of the General Assembly

I have the honour to inform you that the Government of the Republic of Guatemala has decided to present its candidature for membership in the Human Rights Council for the period 2017-2019, in the elections to be held during the seventy-first session of the General Assembly in November 2016.

In this regard, the Government of the Republic of Guatemala has the honour to submit herewith its voluntary pledges and contributions to the promotion and protection of human rights, in accordance with the provisions of General Assembly resolution 60/251 (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly.

(*Signed*) José Alberto Sandoval
Ambassador
Permanent Representative

* A/71/50.

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Annex to the letter dated 22 March 2016 from the Permanent Representative of Guatemala to the United Nations addressed to the President of the General Assembly

Candidacy of Guatemala to the United Nations Human Rights Council for the period 2017-2019

Voluntary pledges and contributions of Guatemala to the promotion and protection of human rights

Role of Guatemala in the promotion and protection of human rights

1. For Guatemala, human rights are intimately linked to respect for democracy and the rule of law. Therefore, strengthening the international human rights system is a high priority for the Government and a fundamental goal of its foreign policy.

2. Guatemala is fully committed to the consolidation and strengthening of the United Nations Human Rights Council as the primary organ for the promotion and protection of human rights.

3. Guatemala is convinced of the importance of promoting the highest international human rights standards and fostering their development through active participation in various international human rights forums.

Contributions of Guatemala to human rights at the international level

4. Guatemala has participated and continues to participate actively in international human rights forums, in keeping with its foreign policy. Guatemala was a member of the Commission on Human Rights for the periods 1949-1951, 1967-1972, 1998-2003 and 2004-2006, and participated actively in its work, which enabled it to gain experience in the overall approach to human rights issues in different regions of the world. Moreover, Guatemala was itself subject to the Commission's scrutiny until 1997 and hosted the United Nations Verification Mission in Guatemala (MINUGUA) until 2004.

5. In 2006, Guatemala had the honour of being elected a member of the United Nations Human Rights Council for the period 2006-2008, and again in 2010 for the period 2010-2013, which enabled it to continue to promote universal respect for the protection of all human rights and fundamental freedoms for all, without any distinction and in a fair manner, and to work to strengthen the Council as the primary United Nations human rights body.

6. Guatemala promotes the highest international human rights standards, both in the Council and in the United Nations General Assembly. It promotes human rights initiatives, such as those involving the human rights of indigenous peoples, and supports other initiatives, including those relating to women, migrants, persons with disabilities, the elderly, freedom of expression, the eradication of racial discrimination, human rights defenders, and drugs and human rights. Guatemala chaired the negotiations on Human Rights Council resolution 28/28 on this subject, and also supports initiatives related to business and human rights.

7. Guatemala hopes to use its participation in the international human rights system to promote its rights, defend its interests and promote democratic principles and ideals, the rule of law and respect and promotion of human rights, in order to

ensure that all States are treated equitably in the various international human rights bodies, whatever their size, and that those bodies operate in an objective, transparent and constructive manner.

8. At the international level, the Republic of Guatemala actively supported and voted in favour of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, and at the inter-American level, it is actively participating in the efforts to develop an American declaration on the rights of indigenous peoples. Guatemala is also one of the main sponsors of the initiative seeking to change the existing mandate of the Expert Mechanism on the Rights of Indigenous Peoples, in order to comply with the provisions of the Outcome Document of the World Conference on Indigenous Peoples.

9. Guatemala voluntarily and constructively agreed to be reviewed by the Working Group on the Universal Periodic Review of the Human Rights Council in 2008 and 2012. To monitor implementation of the resulting recommendations and those made by treaty and non-treaty bodies, a national system has set up to monitor implementation of the recommendations made to Guatemala by the oversight bodies of the United Nations system, through a participatory approach involving sectors of civil society and the State. This system operates using information provided by representatives of the relevant institutions.

10. With regard to the implementation of the recommendations of the universal periodic review mechanism, it should be noted that Guatemala made a voluntary commitment to submit a midterm report to the United Nations Human Rights Council in 2015. The 2012-2014 midterm report, on progress achieved with regard to the voluntary pledges and commitments made during the second universal periodic review in 2012 was presented in April 2015. It summarized the five voluntary commitments made by Guatemala as follows: (a) to reform the country's institutional human rights system; (b) to pursue its political agenda to strengthen the specialized justice system with a view to protecting women; (c) to establish policies and programmes aimed at preventing armed violence, with a particular focus on minors; (d) to develop a programme for the protection of journalists; and (e) to continue implementing its permanent system for monitoring the implementation of recommendations, established by the Presidential Commission on Human Rights.

11. Guatemala has also been part of the troika of other countries that have agreed to undergo a review and has promoted dialogue with States under review, maintaining a positive and constructive approach in order to facilitate the promotion and protection of human rights and international cooperation to that end.

12. Guatemala maintains an open-door policy of cooperation with the special mechanisms of the Human Rights Council and the inter-American system that monitor such matters, taking into account their requests, recommendations and urgent appeals. This policy was strengthened after Guatemala became a member of the Human Rights Council in 2006 and 2010.

13. In recent years, the following officials have visited the country:

(a) 2008: Ms. Kyung-wha Kang, United Nations Deputy High Commissioner for Human Rights; Ms. Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders; Mr. Jorge A. Bustamante, Special Rapporteur on the human rights of migrants; and Mr. Vernor Muñoz Villalobos, Special Rapporteur on the right to education;

(b) 2009: Mr. Leandro Despouy, Special Rapporteur on the independence of judges and lawyers; and Mr. Olivier De Schutter, Special Rapporteur on the right to food;

(c) 2010: Mr. Anand Grover, Special Rapporteur on the right to health;

(d) 2011: Mr. James Anaya, Special Rapporteur on the rights of indigenous peoples;

(e) 2012: Ms. Navi Pillay, United Nations High Commissioner for Human Rights; and Ms. Najat Maalla M'jid, Special Rapporteur on the sale of children, child prostitution and child pornography;

(f) 2013: Ms. Dinah Shelton, Rapporteur for Guatemala and Rapporteur on the Rights of Indigenous Peoples of the Inter-American Commission on Human Rights;

(g) 2014: Ms. Flavia Pansieri, United Nations Deputy High Commissioner for Human Rights;

(h) 2015: United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

14. In the context of this open-door policy of cooperation with special mechanisms, the mandate of the Office of the High Commissioner for Human Rights in Guatemala was renewed for three more years, from September 2014 to September 2017; this is the third time that the mandate has been renewed since it was established in 2005.

15. Guatemala is a party to the major regional and universal human rights instruments. It also recognizes the importance of the jurisdiction of the oversight bodies established under those treaties with regard to monitoring and oversight. It cooperates closely with them and is essentially up to date on the submission of its national reports to treaty bodies.

16. In this regard, Guatemala has constructively agreed to be reviewed by the human rights treaty bodies of which it is a party. As always, it looks forward to new recommendations in order to continue ensuring and protecting the human rights of its inhabitants. The following reports of Guatemala have been reviewed in recent years: (a) in 2010, its third and fourth reports to the Committee on the Rights of the Child; (b) in 2010, its twelfth and thirteenth reports to the Committee on the Elimination of Racial Discrimination; (c) in 2011, its initial report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families; (d) in 2012, its third report to the Human Rights Committee; (d) in 2013, its fifth and sixth reports to the Committee against Torture; (e) in 2014, its third report to the Committee on Economic, Social and Cultural Rights; and (f) in 2015, its fourteenth and fifteenth reports to the Committee on the Elimination of Racial Discrimination.

17. In fulfilment of the pledges that the Government of the Republic of Guatemala made in May 2010 upon submitting its candidature for election to the Human Rights Council with regard to the promotion of international treaties and other human rights initiatives, instruments of ratification have been deposited for the following international treaties: (a) the Convention on Cluster Munitions, in 2010; (b) the Rome Statute of the International Criminal Court, in 2012; and (c) the Comprehensive

Nuclear-Test-Ban Treaty, in 2012. With regard to the national implementation of the first two treaties cited, the Congress of the Republic has adopted Decree No. 22-2012 on cluster munitions and is currently concluding the draft bill on the implementation of the Rome Statute, which includes the criminalization of crimes against humanity, war crimes, the crime of genocide and the crime of aggression. It is also concluding the draft bill on cooperation with the International Criminal Court, in accordance with the provisions of the Rome Statute.

18. On 20 March 2014, in the light of the commitment made by Guatemala through the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Congress of the Republic, in accordance with the relevant law, elected the five permanent rapporteurs and five alternate rapporteurs of the National Office for the Prevention of Torture, which is already operational. In March 2015, the Office submitted its first working report to the Congress of the Republic.

19. With regard to the negotiation of treaties, Guatemala actively participated in the negotiations on the Arms Trade Treaty, because it considers that the Treaty contributes to the maintenance of peace and respect for human rights and international humanitarian law. The Treaty was signed by Guatemala in 2013 and is currently being considered by the Congress of the Republic. Guatemala also participated in the negotiations on the draft Inter-American Convention on Protecting the Human Rights of Older Persons and the draft American Declaration on the Rights of Indigenous Peoples, both within the framework of the Organization of American States. Guatemala also supports the international process on the humanitarian impact of nuclear weapons, as reflected in its participation in the conferences held in Oslo in 2013 and Nayarit and Vienna in 2014, because it considers that the use of nuclear weapons is contrary to the principles enshrined in the Charter of the United Nations and is incompatible with international humanitarian law.

20. In recent years, the Government of Guatemala has created offices specializing in different areas that are important for the protection of human rights; these offices are composed of the highest authorities of various ministries and other relevant State institutions, and include notably (a) the Special Office for Women, established in 2012; (b) the Special Office for Social Development, established in 2012; (c) the Special Office for Youth, also established in 2012; (d) the Special Office for Integrated Rural Development, established in 2013, which approved the plan for the implementation of the National Policy for Comprehensive Rural Development; and (e) the Office for Indigenous Peoples and Intercultural Affairs, established in 2014.

21. In the same vein, Guatemala has adopted a number of national plans and policies which have an impact on the exercise of human rights, such as (a) the National Policy for Violence and Crime Prevention, Public Security and Peaceful Coexistence 2014-2034; (b) the National Policy for the Advancement and Integrated Development of Women and its Equal Opportunity Plan 2008-2023; (c) the Public Policy for Coexistence and the Elimination of Racism and Racial Discrimination; and (d) the National Youth Policy 2012-2020.

22. Also of note is the Public Policy for the Compensation of Communities Affected by the Construction of the Chixoy Hydroelectric Dam, which is to be implemented from 2015 to 2019 and is designed to compensate 33 communities adversely affected by the construction of the dam in 1983. The compensation provided will amount to 1.2 billion quetzals (approximately $154 million), for

individual compensation and community projects. In 2015, 32 million quetzals (approximately $4.18 million) were disbursed to individuals and 3.2 million quetzals (approximately $418,000) for community projects. The budgetary allocation for 2016 is 107 million quetzals (approximately $14 million) for individual financial compensation and approximately 113 million quetzals (about $15 million) for the provision of goods and services.

23. It is important to mention the K'ATUN 2032 National Development Plan, which constitutes the 20-year national development policy, covering the period from 2012 to 2032, and sets out the policies, plans, programmes, projects and investments for that period. The Plan incorporates the concepts of social, economic and environmental sustainability and resilience; promotion of social equity; respect for multiculturalism and protection of human rights; and consolidation of democracy, in particular the importance of civil liberties and the participation of citizens in the effort to improve their living conditions and productive capacities.

24. With regard to the rights of indigenous peoples, a strategic alliance has been established between the Presidential Commission on Discrimination and Racism against Indigenous Peoples in Guatemala, the Presidential Commission for Coordinating Executive Human Rights Policy, and the Ministry of Foreign Affairs to promote inter-agency coordination of the monitoring of international commitments concerning indigenous peoples. The alliance fulfils its mandate by, among other things, submitting reports to the United Nations and the Organization of American States, monitoring the commitments made in the context of the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples, and keeping track of reports requested by other international organizations. It has promoted the international agenda of indigenous peoples before the relevant national bodies, in an effort to ensure close coordination during the fulfilment of those obligations.

25. With regard to the promotion of the rights of indigenous peoples, noteworthy work is also being done by the Office for the Defence of Indigenous Women, the Guatemalan Fund for Indigenous Development and the Academy of Mayan Languages of Guatemala. There are also 32 specialized units on the topic in State institutions, distributed as follows: 19 in the executive branch, 1 in the legislative branch, 1 in the judicial branch, 10 in the autonomous national institutions, along with the Fiscal Prosecution Unit for the Prevention of Discrimination Offences and the Protection of the Rights of Indigenous Peoples, which was established in 2014 as part of the Human Rights Section of the Office of the Public Prosecutor.

26. In the prevention of and fight against impunity for the crimes of femicide, violence against women, sexual violence, exploitation and human trafficking, multi-person criminal courts of first instance and criminal sentencing courts dealing with the crime of femicide and other forms of violence against women were established in 2012 and 2013. The Comprehensive Care for Victims System is also integrated into these courts. The Secretariat for Women and Gender Analysis, which coordinates, evaluates and directs action on the various aspects of the gender perspective and women's human rights with regard to justice, is also part of the judicial branch. The Secretariat is responsible for implementing the Institutional Policy on Equity, Gender and the Promotion of the Human Rights of Women in the Judicial Branch, which aims to ensure that all judicial actors deliver justice with a view to preventing, punishing and eliminating violence against women. Lastly, the

Unit Responsible for Overseeing, Monitoring and Evaluating Bodies Specializing in the Crime of Femicide and Other Forms of Violence against Women was established to provide technical and administrative support to specialized bodies.

27. In order to help fight impunity in the country, the International Commission against Impunity in Guatemala was set up in 2007 with United Nations support. This is a unique mechanism with few international precedents, which the State has adopted in an effort to meet its obligation to ensure the protection of human rights; the Commission's mandate has been extended until 2017.

28. The State adheres to the commitments made in the Community of Democracies and will therefore continue to participate actively in this group which promotes democratic governance. For Guatemala, democracy involves not just holding free and regular elections, but also accepting other imperatives, such as the separation of powers, the protection of human rights, transparency and the fight against corruption. The exercise of civil and political rights and the guarantees they provide are recognized as essential to democratic life.

29. In terms of public security, comprehensive protective measures focusing on crime prevention, and measures to control factors that have an incidence on crime have been adopted to help create a safe environment for the population. In that regard, in 2014, the Government adopted the National Policy for Violence and Crime Prevention, Public Security and Peaceful Coexistence 2014-2034. This instrument has become a long-term institutional political project that is laying the foundation for the transformation of the security system, replacing the old paradigm of repression with one of crime and violence prevention.

30. With regard to the promotion of security, in October 2012, the State made a commitment to establish a programme for the protection of journalists, in accordance with the recommendation of the 2012 universal periodic review. In November 2013, the President of the Republic, the Ministry of the Interior and the Presidential Commission on Human Rights signed off on the agreement to establish the programme. On the basis of that agreement, a high-level technical round table for the establishment of the programme was held in February 2014. In addition to various government bodies, the Office of the United Nations High Commissioner for Human Rights and the United Nations Educational, Scientific and Cultural Organization participated in the round table as observers. Once the programme is established, a law shall be passed to ensure that it has national coverage. In so doing, Guatemala will become the third country in Latin America to adopt a plan for the protection of journalists.

31. Guatemala values the important work being done by human rights defenders and is concerned about their safety. As a result, the Ministry of the Interior established the Unit for the Analysis of Attacks against Human Rights Defenders in Guatemala by Ministerial Decision No. 09-2012, to help promote their safety.

32. Recognizing the importance of the issue of business and human rights, Guatemala became one of the sponsors of a Human Rights Council resolution on human rights and transnational corporations and other business enterprises, and participated in the three sessions of the forum on the issue held in Geneva. Guatemala believes that all States should make progress in the implementation of the Guiding Principles on Business and Human Rights, in accordance with their individual specificities and needs, and that the working group on this topic has the

mandate to guide States, business enterprises, civil society, victims and all interested parties to that end, in a gradual manner and on a voluntary basis. With the support of the Office of the United Nations High Commissioner for Human Rights in Guatemala, a process of outreach and reflection has been launched in the country to foster awareness of and compliance with these principles among government institutions, business enterprises and civil society.

33. Guatemala has made efforts to adopt the necessary legislation and establish the relevant institutions to address the problem of human trafficking. The most notable of these institutions are the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons (established by Decree No. 9-2009, Sexual Violence, Exploitation and Trafficking in Persons Prohibition Act); the Office of the Public Prosecutor with national jurisdiction over human trafficking; courts specializing in the crime of femicide and other forms of violence against women; the Office of the Ombudsman for Victims of Human Trafficking, which is under the Office of the Public Prosecutor for Human Rights; and inter-agency networks against human trafficking at the national level. In addition, the Public Policy against Trafficking in Persons and for the Comprehensive Protection of Victims and its Strategic Action Plan 2014-2020 are being implemented. This policy shall guide the State in preventing, suppressing and punishing human trafficking in all its forms and protecting the victims of this scourge.

34. On the subject of migrants, Guatemala has made progress with regard to care, protection and social reintegration of migrant children and adolescents, which is a global problem. In this regard, the Commission for the Comprehensive Care of Migrant Children and Adolescents was established in 2014 through Governmental Decision No. 146-2014, as an inter-agency body with jurisdiction in four areas: consular protection, psychosocial care and support, social insertion and integration, and the prevention of undocumented migration.

35. Likewise, with regard to the protection of children's rights, in 2010 Decree No. 28-2010 was passed, thus establishing the Alba-Keneth Alert System, the goal of which is to immediately track down and protect abducted or missing children. The law was amended in 2012 to strengthen the Alert System.

Human rights pledges and commitments of Guatemala

36. In the Human Rights Council, Guatemala undertakes to:

At the international level

(a) Enhance the efforts to consolidate the Human Rights Council as the primary United Nations organ for the promotion and protection of human rights;

(b) Participate actively and constructively in all organs and mechanisms of the Human Rights Council;

(c) Support the strengthening of the human rights special procedures system;

(d) Foster coordination and cooperation among all countries of the world to consolidate the system for the promotion and protection of human rights;

(e) Address human rights issues in an equitable, objective and non-selective manner, ensuring the exercise and observance of human, economic, social, cultural, civil and political rights, including the right to development;

(f) Continue encouraging State compliance and engagement with the universal periodic review and national monitoring of accepted recommendations;

(g) Continue following up on the recommendations made by Guatemala during the various reviews of States;

(h) Work unceasingly to promote the full exercise of human rights for all, especially those who, owing to special circumstances, are considered to be more vulnerable and unprotected;

(i) Continue promoting the consideration of important issues in the Human Rights Council, in particular with regard to unaccompanied migrant children and human right;

(j) Continue participating actively in and cooperating with the Expert Mechanism on the Rights of Indigenous Peoples;

(k) Propose, sponsor and promote the implementation of resolutions of the Human Rights Council on human rights and indigenous peoples, the mandate of the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples.

At the national level

(l) Promote in the legislative branch the adoption of international human rights instruments and legislative initiatives for the national implementation of international human rights commitments;

(m) Continue promoting public policies aimed at improving the enjoyment of human rights of vulnerable groups, including children, women, youth, persons with disabilities, the elderly, indigenous peoples, people of African descent, migrants and people with HIV/AIDS;

(n) Promote cooperation and develop mechanisms for dialogue, and strengthen the participation of civil society;

(o) Maintain the open-door policy of cooperation with international human rights oversight mechanisms;

(p) Continue implementing the recommendations of treaty bodies and those accepted by Guatemala during the universal periodic review, and strengthen the national system for monitoring implementation of the recommendations made to Guatemala;

(q) Continue supporting the work of the National Office for the Prevention of Torture;

(r) Cooperate constructively with international human rights bodies;

(s) Continue promoting the issue of business and human rights, in order to ensure that it is better understood at the national level, and review the compliance mechanisms on the issue.